

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
QUANTUM CORPORATE FUNDING, LTD

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID R. WARFIELD,
NATIONAL CITY MORTGAGE, INC. and PENN
LYON HOMES CORPORATION

Defendants.

Docket No. 08 CV 00539(LAK) (HP)

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the annexed affirmation of Scott H. Goldstein, Esq. affirmed on August 5, 2008 and the exhibits attached thereto, the accompanying Memorandum of Law in support of this Motion, and the pleadings herein, plaintiff/defendant will move this Court, before Honorable Lewis A. Kaplan, J.S.C. United States District Judge, for an Order pursuant to Rules 6(b)(2), 56(f), 59(e), 60(b)(1) and (6) of the Federal Rules of Civil Procedure and Local Civil Rule 6.3 granting the following relief:

1) Vacatur of the final judgment entered against defendant PLH on plaintiff Quantum Corporate Funding, Ltd's ("Quantum") motion for summary judgment which was heard and decided before PLH filed its opposition thereto; and

2) Upon vacatur of final judgment, denial of plaintiff's summary judgment motion on the merits;

3) Reconsideration of the Court's Order granting summary judgment against PLH and in favor of Quantum, and upon reconsideration, denial of Quantum's motion for summary judgment;

3) Reconsideration of the Court's Order granting summary judgment against PLH and in favor of Quantum, and upon reconsideration, denial of Quantum's motion for summary judgment;

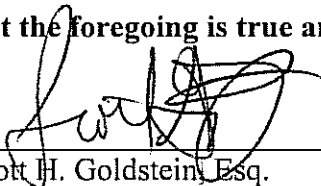
4) In the alternative, PLH requests an extension of time to file opposition to plaintiff's summary judgment motion out of time pursuant to Fed R. Civ. P. 6(b)(2); and/or;

5) an adjournment of plaintiff's motion for summary judgment to allow the parties to engage in discovery before PLH has to file its substantive opposition to the motion pursuant to Fed. R. Civ. P. 56(f); and

6) such other and further relief as this Court deems just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
August 5, 2008



Scott H. Goldstein, Esq.
BONNER KIERNAN TREBACH
& CROCIATA, LLP
Attorneys for Defendant
Penn Lyon Homes Corporation
Empire State Building – Suite 3304
New York, New York 10118
Tel # (212) 268-7535
Fax # (212) 268-4965

EXHIBIT A

12/20/2007 17:26 FAX 212 388 5519

CORPORATE OFFICE

Q002

Transaction# _____ Client# _____ Rebate Class _____ Advt _____

PURCHASE & SALE AGREEMENT

In consideration of the sum of \$ _____

\$112,148.28 to Penn Lyon Homes Corp.
 \$120,731.72 to Westwood Design
 paid by purchaser to seller,

receipt of which is hereby acknowledged, the undersigned Westwood Design Build Incorporated ("Seller") hereby sells, transfers and assigns to Quantum Corporate Funding, Ltd. ("Purchaser"), its successors and assigns all Seller's right, title and interest in and to Seller's account(s) receivable (including the proceeds of any surety, payment bond or guaranty thereof) owing by various account debtors described in Exhibit "A" attached hereto and made part hereof, together with all rights of action accrued, or to accrue thereon, including, without limitation, full power to collect, sue for, compromise, assign, or in any other manner enforce collection thereof in Purchaser's name or otherwise.

Seller represents, warrants and agrees that:

(a) The Seller is the sole and absolute owner of said account(s), and has full legal right to make said sale, assignment, and transfer, and that said sale transfer or assignment does not conflict with the terms of any other agreement, or instrument to which Seller is a party.

(b) The current total amount of said account(s) is \$ _____

(c) Said account(s) are presently due and owing to Seller and the amount(s) thereof are not and will not be in dispute; and the payment of said account(s) are not and will not be contingent upon the fulfillment of this, or any other contract(s), past or future.

(d) There are not and will not be any set-offs or counterclaims against said account(s), and said account(s) have not been previously assigned or encumbered by Seller in any manner whatsoever.

(e) Purchaser has right of endorsement on all payments received in connection with said account(s), and Seller hereby appoints Purchaser its attorney in fact for said purpose. In order to accommodate the accounting needs of its clients, Seller hereby directs purchaser, or agent, to accept and deposit all checks received from sellers clients whether or not they represent assigned accounts.

(f) Seller will promptly advise Purchaser, in writing, if Seller's place of business and record keeping is changed or a new place is added.

(g) At Purchaser's request, Seller hereby agrees to file a Notice of Mechanic's Lien on any real property improvement upon which it has performed labor or furnished materials, the account for which labor and/or materials it has assigned to Purchaser. In the event Seller fails to promptly comply with such request, Seller does hereby constitute and appoint Purchaser as its agent to execute and file in the name of Seller a Notice of Mechanic's Lien to the extent of the debt due from the account debtor for and on account of such labor and material. In connection with the filing of such Notice of Mechanic's Lien, the Seller agrees to periodically advise the Purchaser of the amount or amounts owed by the account debtor in connection with each real improvement so that the Notice of Mechanic's Lien will be accurate in all respects. Seller further agrees not to provide the account debtor with a "Waiver of Right to File a Notice of Mechanic's Lien" without the prior written consent of Purchaser.

(h) Should any of the warranties expressed by Seller be inaccurate and it becomes necessary for Purchaser to utilize an attorney to enforce its rights against Seller, Seller agrees that such attorney fees shall be borne by Seller.

(i) Purchaser further agrees that if the amount referred to in (b) above (or any portion thereof) is not paid by the account debtor(s) thereof for any reason other than a breach of the representations, warranties and covenants contained herein, Seller shall not be liable to repay to Purchaser any amount paid by Purchaser to Seller in consideration of the sale, transfer and assignment herein contained.

(j) Purchaser warrants that it will use its best efforts to collect the amounts due under this agreement and Seller agrees that Purchaser may, in its sole discretion, settle, compromise, or otherwise accept payment of less than the full amount, if in its judgment such action is necessary to effect collection, by reason of a violation of any of the representations and warranties contained in this agreement.

(k) In the event it should become necessary for the Purchaser to enforce its rights hereunder against Seller, the Guarantor(s) or the Account Debtor(s), Seller agrees that Purchaser may apply up to maximum of thirty third and one third (33 1/3%) of clause (b) for Purchaser's attorney's fees therefor.

(l) To secure the representations and covenants made by Seller in this agreement, but not the credit risk of the Account(s), Seller hereby grants to Purchaser a continuing security interest in all personal property and fixtures in which Seller has an interest, now or hereafter existing or acquired, and wherever located, tangible or intangible, including but not limited to, all present or hereafter existing or acquired tools, goods, (including without limitation, all equipment), inventory, furniture, receivables, accounts, security agreements, notes, bills, acceptances, instruments, installment paper, chattel paper, documents, certificates of deposit, tax refunds, insurance proceeds, conditional sales or lease contracts, cash or cash equivalents, chattel mortgages or deeds of trust, general intangibles, all intellectual property including, without limitation patents, trademarks and copyrights (and applications for all of the foregoing), contract rights, and all other hypothecation, and promises or duty to pay money, now or hereafter owned or acquired by Seller (including without limitation all rights of Seller as an unpaid vendor). And all proceeds and collections thereof, all guarantees and other security therefor, and all right, title and interest of Seller in any returned, repossessed, rejected or un-shipped goods, together with all of Seller's books of accounts, ledger cards and records, all vehicles, all computer programs, and systems owned or operated in connection therewith, all of the above securing present and future advances and all proceeds, products, returns add-ons, accessories and substitutions of and to pay any of the foregoing. Further to this purpose, Seller hereby grants Purchaser and its agents Power of Attorney to sign its name on any applicable financing statements (UCC's) and otherwise in order to effectuate filing(s) on the aforementioned assets of Seller. Upon any default in Seller's representations, warranties, and covenants Purchaser may enforce said security agreement in accordance with the provisions of the Uniform Commercial Code.

(m) No failure or delay on the part of Purchaser in exercising any right power or remedy granted to purchaser hereunder shall constitute a waiver thereof. No amendment, modification or waiver of, any provision of this Agreement shall be effective unless the same shall be in writing and signed and delivered by Purchaser.

(n) Purchaser shall have the right to deduct the amount of any allowance(s), discount(s), returns(s), defense(s), or offset(s) taken by the Account Debtor(s) from any other accounts receivable or other billing rights purchased by purchaser from Seller or demand reimbursement from Seller based upon representations made by Seller in this agreement as to the Account and Purchaser shall have such other rights and remedies against Seller as shall be available to Purchaser at law or in equity, all of which rights and remedies are hereby expressly reserved.

QuantumCorporate@Purchaser.com

PLEASE FAX THIS PAGE BACK ALSO

Handwritten signature: David R. Wapner

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PAGE 01

WESTWOOD CUSTOM HOME

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CORPORATE OFFICE

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(i) The Account(s) shall be the property of Purchaser, solely and shall be collected by Purchaser. But if for any reason any amount(s) thereon should be paid to Seller, Seller shall notify Purchaser immediately of such payment(s), shall hold any check(s), note(s), draft(s), money or other instruments for the payment of money to be received in trust for the benefit of Purchaser, and shall pay over such money and transmit such check(s) or draft(s) to Purchaser in kind, at its office within ten (10) days of receipt thereof. SELLER AGREES TO HOLD SUCH PAYMENTS UNTIL 3 DAYS TO 3 DAYS OF RECEIPT THEREOF. SELLER AGREES TO HOLD SUCH PAYMENTS UNTIL 3 DAYS TO 3 DAYS OF RECEIPT THEREOF. SELLER AGREES TO HOLD SUCH PAYMENTS UNTIL 3 DAYS TO 3 DAYS OF RECEIPT THEREOF. SELLER AGREES TO HOLD SUCH PAYMENTS UNTIL 3 DAYS TO 3 DAYS OF RECEIPT THEREOF.

(j) The paragraphs of this Agreement are severable, and in the event that any paragraph or portion of this Agreement is declared illegal or unenforceable, the remainder of this Agreement will be effective and binding upon the parties.

(k) This agreement shall be governed by the laws of the State of New York applicable to contracts executed in and to be performed solely within the State of New York. Seller hereby submits, at the election of Purchaser, to personal jurisdiction in the State of New York for the enforcement of this agreement or any claim(s) hereunder, and hereby waives any and all rights under the laws of any foreign jurisdiction to object to such jurisdiction. Any claim by Seller against Purchaser shall be brought in the State of New York only. In any suit or proceeding relating to this Agreement, the parties mutually waive trial by jury.

(l) SELLER HEREBY AND UNCONDITIONALLY WARRANTS THAT IT WILL AT ALL TIMES REMAIN CURRENT ON ANY AND ALL STATE OR FEDERAL TAXES AND OTHER TAXES.

(m) Seller hereby grants Quantum Authority to sign in its name to any forms required by any governmental entities (including but not limited to Bloomberg News or similarly required government forms) for the purpose of performing the performance of an assignment and transfer of payment to Purchaser and/or to recover from a breach of the security agreement provided for in (1) above.

Seller (assignment) covenants that it will receive any moneys advanced hereunder as trust funds to be first applied to the following expenditures arising out of the improvement of real property and incurred in the performance of said contract:

A) Payment of claims of subcontractors, architects, engineers, surveyors, laborers and materialmen;

B) Payment of the amount of taxes based on payroll including such persons and withheld or required to be withheld or required to be withheld and taxes based on the purchase price or value of materials or equipment required to be furnished or furnished in connection with the performance of the improvement;

C) Payment of taxes and unemployment insurance and other contributions due by reason of the employment out of which such claims arose;

D) Payment of any benefits or wage supplements, or the amount necessary to provide such benefits or furnished such supplements, to the extent that the trustee, as employee, is obligated to pay or provide such benefits or furnish such supplements by any agreement to which he is a party;

E) Payment of premiums on a surety bond or bonds filed and premiums on insurance accrued during the making of the improvement.

Nothing in this covenant shall be considered as imposing upon the Purchaser (assignment) any obligation to seek to the proper application of moneys advanced under such assignment by the assignee.

SELLER AGREES TO HOLD PURCHASER HARMLESS FROM ANY BREACH OF SELLER'S REPRESENTATIONS, WARRANTIES, AND AGREEMENTS CONTAINED HEREIN WITHOUT ANY EFFECT WHATSOEVER FOR SELLER'S NEGLIGENCE OR NEGLIGENCE.

ACCEPTED AND AGREED

By: J. Diamonds, Jr. Asst. Exec. Dated this day of 20 DEC 2007
Quantum Corporate Funding Ltd. By: David R. Wofford President
Signature and Title

Warrantee: The undersigned (not including the Seller) hereby personally guarantees, and shall be jointly and severally liable for the warranties, representations and covenants made by Seller set forth above.

By: David R. Wofford Dated this day of 20 DEC 2007
Signature and Title

Affirmation and Certification:

State of County of day of 20
Sole to before me this

Signature of Notary Public

WE ARE PURCHASING OUTRIGHT THE GROUP OF ACCOUNTS ATTACHED HERETO FOR THE PRICE SPECIFIED ON THE REVERSE SIDE HEREOF. WE ADVISED AT THE PRICE BY PURCHASER AND CREDIT RISK THAT WE ARE ASSUMING AS WELL AS THE TIME THAT MIGHT ELAPSE BEFORE WE COLLECT THE PROCEEDS OF THOSE ACCOUNTS THAT DO NOT PAY. AS AN INDICATOR TO OUR CLIENTS TO USE US THE "BEST QUALITY" ACCOUNTS, I.E., THOSE THAT ARE PAID QUICKLY. WE ARE FORWARDED TO OUR CLIENTS ON NEW DISCOUNT THAT WE ADVISED IN ADVISING AT THE PURCHASE PRICE, PROVIDED THAT WE SHALL HAVE FIRST RECEIVED OUR PURCHASE PRICE IN FULL WITHIN 180 DAYS OF THE DATE OF THE PURCHASE. THE PURCHASE PRICE SHALL BE PAID TO US MORE QUICKLY THAN WE HAD ANTICIPATED WHEN WE CALCULATED THE DISCOUNT. THERE SHALL BE NO DEDUCTION OF INVOICES COLLECTED BEYOND 180 DAYS. NOTWITHSTANDING ANYTHING CONTAINED HEREIN UNDER NO CIRCUMSTANCES SHALL THE DISCOUNT EXCEED 2% PURCHASE PRICE TO LESS THAN \$250.00.

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Accounts of The Bulk Mail within 1 to 30 days	21. per hundred of The Account Amount.
Accounts of The Bulk Mail within 31 to 40 days	22. per hundred of The Account Amount.
Accounts of The Bulk Mail within 41 to 50 days	23. per hundred of The Account Amount.
Accounts of The Bulk Mail within 51 to 60 days	24. per hundred of The Account Amount.
Accounts of The Bulk Mail within 61 to 70 days	25. per hundred of The Account Amount.
Accounts of The Bulk Mail within 71 to 80 days	26. per hundred of The Account Amount.
Accounts of The Bulk Mail within 81 to 90 days	27. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 181 to 190 days	37. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 541 to 550 days	73. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 581 to 590 days	77. per hundred of The Account Amount.
Accounts of The Bulk Mail within 591 to 600 days	78. per hundred of The Account Amount.
Accounts of The Bulk Mail within 601 to 610 days	79. per hundred of The Account Amount.
Accounts of The Bulk Mail within 611 to 620 days	80. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 651 to 660 days	84. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 681 to 690 days	87. per hundred of The Account Amount.
Accounts of The Bulk Mail within 691 to 700 days	88. per hundred of The Account Amount.
Accounts of The Bulk Mail within 701 to 710 days	89. per hundred of The Account Amount.
Accounts of The Bulk Mail within 711 to 720 days	90. per hundred of The Account Amount.
Accounts of The Bulk Mail within 721 to 730 days	91. per hundred of The Account Amount.
Accounts of The Bulk Mail within 731 to 740 days	92. per hundred of The Account Amount.
Accounts of The Bulk Mail within 741 to 750 days	93. per hundred of The Account Amount.
Accounts of The Bulk Mail within 751 to 760 days	94. per hundred of The Account Amount.
Accounts of The Bulk Mail within 761 to 770 days	95. per hundred of The Account Amount.
Accounts of The Bulk Mail within 771 to 780 days	96. per hundred of The Account Amount.
Accounts of The Bulk Mail within 781 to 790 days	97. per hundred of The Account Amount.
Accounts of The Bulk Mail within 791 to 800 days	98. per hundred of The Account Amount.
Accounts of The Bulk Mail within 801 to 810 days	99. per hundred of The Account Amount.
Accounts of The Bulk Mail within 811 to 820 days	100. per hundred of The Account Amount.
Accounts of The Bulk Mail within 821 to 830 days	101. per hundred of The Account Amount.
Accounts of The Bulk Mail within 831 to 840 days	102. per hundred of The Account Amount.
Accounts of The Bulk Mail within 841 to 850 days	103. per hundred of The Account Amount.
Accounts of The Bulk Mail within 851 to 860 days	104. per hundred of The Account Amount.
Accounts of The Bulk Mail within 861 to 870 days	105. per hundred of The Account Amount.
Accounts of The Bulk Mail within 871 to 880 days	106. per hundred of The Account Amount.
Accounts of The Bulk Mail within 881 to 890 days	107. per hundred of The Account Amount.
Accounts of The Bulk Mail within 891 to 900 days	108. per hundred of The Account Amount.
Accounts of The Bulk Mail within 901 to 910 days	109. per hundred of The Account Amount.
Accounts of The Bulk Mail within 911 to 920 days	110. per hundred of The Account Amount.
Accounts of The Bulk Mail within 921 to 930 days	111. per hundred of The Account Amount.
Accounts of The Bulk Mail within 931 to 940 days	112. per hundred of The Account Amount.
Accounts of The Bulk Mail within 941 to 950 days	113. per hundred of The Account Amount.
Accounts of The Bulk Mail within 951 to 960 days	114. per hundred of The Account Amount.
Accounts of The Bulk Mail within 961 to 970 days	115. per hundred of The Account Amount.
Accounts of The Bulk Mail within 971 to 980 days	116. per hundred of The Account Amount.
Accounts of The Bulk Mail within 981 to 990 days	117. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1081 to 1090 days	127. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1101 to 1110 days	129. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1251 to 1260 days	144. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1261 to 1270 days	145. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1271 to 1280 days	146. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1281 to 1290 days	147. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1291 to 1300 days	148. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1401 to 1410 days	159. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1421 to 1430 days	161. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1431 to 1440 days	162. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1451 to 1460 days	164. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1461 to 1470 days	165. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1471 to 1480 days	166. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1481 to 1490 days	167. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1491 to 1500 days	168. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1501 to 1510 days	169. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1541 to 1550 days	173. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1551 to 1560 days	174. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1561 to 1570 days	175. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1571 to 1580 days	176. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1581 to 1590 days	177. per hundred of The Account Amount.
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Accounts of The Bulk Mail within 1641 to 1650 days	183. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1651 to 1660 days	184. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1661 to 1670 days	185. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1671 to 1680 days	186. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1681 to 1690 days	187. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1691 to 1700 days	188. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1701 to 1710 days	189. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1711 to 1720 days	190. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1721 to 1730 days	191. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1731 to 1740 days	192. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1741 to 1750 days	193. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1751 to 1760 days	194. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1761 to 1770 days	195. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1771 to 1780 days	196. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1781 to 1790 days	197. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1791 to 1800 days	198. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1801 to 1810 days	199. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1811 to 1820 days	200. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1821 to 1830 days	201. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1831 to 1840 days	202. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1841 to 1850 days	203. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1851 to 1860 days	204. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1861 to 1870 days	205. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1871 to 1880 days	206. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1881 to 1890 days	207. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1891 to 1900 days	208. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1901 to 1910 days	209. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1911 to 1920 days	210. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1921 to 1930 days	211. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1931 to 1940 days	212. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1941 to 1950 days	213. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1951 to 1960 days	214. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1961 to 1970 days	215. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1971 to 1980 days	216. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1981 to 1990 days	217. per hundred of The Account Amount.
Accounts of The Bulk Mail within 1991 to 2000 days	218. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2001 to 2010 days	219. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2011 to 2020 days	220. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2021 to 2030 days	221. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2031 to 2040 days	222. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2041 to 2050 days	223. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2051 to 2060 days	224. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2061 to 2070 days	225. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2071 to 2080 days	226. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2081 to 2090 days	227. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2091 to 2100 days	228. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2101 to 2110 days	229. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2111 to 2120 days	230. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2121 to 2130 days	231. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2131 to 2140 days	232. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2141 to 2150 days	233. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2151 to 2160 days	234. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2161 to 2170 days	235. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2171 to 2180 days	236. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2181 to 2190 days	237. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2191 to 2200 days	238. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2201 to 2210 days	239. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2211 to 2220 days	240. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2221 to 2230 days	241. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2231 to 2240 days	242. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2241 to 2250 days	243. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2251 to 2260 days	244. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2261 to 2270 days	245. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2271 to 2280 days	246. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2281 to 2290 days	247. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2291 to 2300 days	248. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2301 to 2310 days	249. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2311 to 2320 days	250. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2321 to 2330 days	251. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2331 to 2340 days	252. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2341 to 2350 days	253. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2351 to 2360 days	254. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2361 to 2370 days	255. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2371 to 2380 days	256. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2381 to 2390 days	257. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2391 to 2400 days	258. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2401 to 2410 days	259. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2411 to 2420 days	260. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2421 to 2430 days	261. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2431 to 2440 days	262. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2441 to 2450 days	263. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2451 to 2460 days	264. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2461 to 2470 days	265. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2471 to 2480 days	266. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2481 to 2490 days	267. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2491 to 2500 days	268. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2501 to 2510 days	269. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2511 to 2520 days	270. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2521 to 2530 days	271. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2531 to 2540 days	272. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2541 to 2550 days	273. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2551 to 2560 days	274. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2561 to 2570 days	275. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2571 to 2580 days	276. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2581 to 2590 days	277. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2591 to 2600 days	278. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2601 to 2610 days	279. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2611 to 2620 days	280. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2621 to 2630 days	281. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2631 to 2640 days	282. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2641 to 2650 days	283. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2651 to 2660 days	284. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2661 to 2670 days	285. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2671 to 2680 days	286. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2681 to 2690 days	287. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2691 to 2700 days	288. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2701 to 2710 days	289. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2711 to 2720 days	290. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2721 to 2730 days	291. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2731 to 2740 days	292. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2741 to 2750 days	293. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2751 to 2760 days	294. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2761 to 2770 days	295. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2771 to 2780 days	296. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2781 to 2790 days	297. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2791 to 2800 days	298. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2801 to 2810 days	299. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2811 to 2820 days	300. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2821 to 2830 days	301. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2831 to 2840 days	302. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2841 to 2850 days	303. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2851 to 2860 days	304. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2861 to 2870 days	305. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2871 to 2880 days	306. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2881 to 2890 days	307. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2891 to 2900 days	308. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2901 to 2910 days	309. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2911 to 2920 days	310. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2921 to 2930 days	311. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2931 to 2940 days	312. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2941 to 2950 days	313. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2951 to 2960 days	314. per hundred of The Account Amount.
Accounts of The Bulk Mail within 2961 to 2970 days	31

12/18/2007 17:33 4108132828

WESTWOOD CUSTOM HOME

PAGE 03

12/18/2007 16:27 4108551196

PAGE 02/02

12/18/2007 17:21 4108132828

WESTWOOD CUSTOM HOME

PAGE 01

12/18/2007 17:11 FAX 212 788 1224

QUANTUM FUNDING

0002

1 /18/07

EXHIBIT A TO: PURCHASE & SALE AGREEMENT
BETWEEN
QUANTUM CORPORATE FUNDING, LTD (PURCHASER)
A
Westwood Design Build Incorporated (Seller).
Transaction# 25914 Clitran#:

Date	Invoice#	Trans Acct. Detail	Unit Detail	Clitran#	Contract#	Invoice Amount
12/18/07	10084	48 National City Mortgage Company	EX1 32772		Subject: Pullydore, New York, Construction, Design, Pullydore, New York, Delivery-200703, 51000, Curbside delivery completed amount due and owing	4108551196

Page: 1 Transaction# 25914

TOTAL INVOICE: 4147,000.00

Seller hereby verifies the accuracy of the above:

By

David L. Weyant Title *President*

EXHIBIT B



INVOICE

Date	Invoice #
12/18/2007	10084

BILL TO:
National City Mortgage/National City Bank Christopher Washburn, Vice President 9852 Walker Drive, Suite 400 Greenbelt, MD 20770

REMIT TO:
Westwood Design/Build Inc. P.O. Box 105 Beltsville, MD 20704

	Terms	P.O. No.	PROJECT	
	Net 45		Pollydore Residence	
Quantity	Description		Rate	Amount
	Construction Draw Pollydore Module Delivery - #0005351534 Curbside Delivery Completed Amount Due and Owing		347,000.00 0.00	347,000.00 0.00
<p>This invoice has been sold, assigned and transferred to: Quantum Corporate Funding, Ltd.</p> <p>Make all checks payable and mail to: Quantum Corporate Funding, Ltd. 1140 Avenue of the Americas, 16th Floor New York, New York 10036</p>				
Modules Delivered			Total	\$347,000.00

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
QUANTUM CORPORATE FUNDING, LTD.,

Plaintiff,

Civil Action
Docket No. 08 CV00539(LAK)(HBP)

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID B. WARFIELD,
NATIONAL CITY MORTGAGE INC., and
PENN LYON HOMES CORPORATION,

Defendants.

-----X
NATIONAL CITY MORTGAGE,

Third-Party Plaintiff,

-against-

MICHAEL CONRAD, a/k/a MICHAEL CONRAD
BROWN,

Third-Party Defendant.

-----X

CRAIG SHEINKER, being duly sworn, deposes and says:

1. I am the President of Quantum Corporate Funding, Ltd. ("Quantum"), the plaintiff herein, have examined Quantum's records and have personal knowledge of the facts and circumstances hereinafter set forth and submit this Affidavit in support of Quantum's motion for summary judgment against defendant Penn Lyon Homes Corporation ("Penn") in the amount of \$112,168.28 together with interest from January 15, 2008.

2. Quantum seeks in this action to recover from defendant Penn the sum of \$112,168.28 of Quantum's monies which Penn either converted and/or was unjustly enriched by, when Quantum wired said sum in payment for the Pollydore's Residence

**AFFIDAVIT IN SUPPORT
OF MOTION FOR
SUMMARY JUDGMENT**

and Penn neither applied the monies to that purpose, nor shipped the goods, nor returned the monies to Quantum.

BACKGROUND

3. Quantum is in the business of accounts receivable factoring.

Headquartered in New York City, New York. Quantum is one of the largest purchasers of contractor receivables in the United States.

4. On or about January, 2007, Mr. and Mrs. Eustace Pollydore, as owners, entered into contracts with defendant Westwood Design/Build Incorporated ("Westwood"), as contractor, and with defendant National City Mortgage Inc. ("National") as construction lender, pursuant to which Westwood contracted to construct a new home for Mr. and Mrs. Pollydore at 6117 Elm Avenue, Lanham, Maryland (the "Pollydore Residence"). A copy of the Westwood/Pollydore contract is annexed hereto as Exhibit "A". A copy of National/Pollydore construct loan agreement is annexed hereto as Exhibit "B".

THE TRANSACTION

5. In 2007, defendant Westwood, by defendant David R. Warfield ("Warfield") approached Quantum to obtain cash by selling Quantum an account receivable. To implement this arrangement, Westwood, by Warfield, offered to assign to Quantum a \$347,000.00 invoice (the "Invoice") which it represented was monies due it from defendant National pursuant to its second draw-down of the Pollydore's construction loan. A copy of the Westwood Invoice to National is annexed hereto as Exhibit "C". The construction loan draw-down schedule is annexed as part of Exhibit "B".

6. Since Quantum has no independent way of knowing if the contractor offering to sell its accounts receivable has, in fact, performed work and furnished materials of the amount invoiced, Quantum contacts the account debtor, in this case the construction lender, defendant National, and requests from the account debtor, a written acknowledgment of and an estoppel certificate for the debt.

7. Accordingly, in December 2007, Quantum contacted defendant National's Branch Manager, Christopher Washburn, at National's office in Greenbelt, Maryland, and requested confirmation that the Invoice (Exhibit "C" hereto) was correct, forwarding to defendant National an estoppel certificate covering the Invoice.

8. In response, defendant National, by its Mr. Washburn, signed the estoppel certificate in the amount of the \$347,000.00 second draw-down of the Pollydore construction loan and returned it to Quantum. A copy of the estoppel certificate executed by defendant National, citing Westwood's Invoice, is annexed hereto as Exhibit "D".

9. In reliance upon defendant National's estoppel certificate, Quantum agreed to purchase the Invoice.

10. The assignment of the Invoice by Westwood to Quantum was made by an agreement entitled Purchase & Sale Agreement (the "Agreement"). A copy of the Agreement is annexed hereto as Exhibit "E".

11. Pursuant to the Agreement, on December 21, 2007, Quantum paid defendant Westwood \$242,900.00 for the Invoice pursuant to Westwood's, by defendant Warfield's, specific instructions, by wiring: (a) \$130,731.72 to Westwood and; (b) wiring \$112,168.28 to defendant Penn, in payment of Penn's invoice No. 850 representing the balance outstanding on its shipment of the "Pollydore Residence". A copy of Westwood's wiring instructions to Quantum is annexed hereto as Exhibit "F". A copy of

the Penn "Pollydore Residence" Invoice No. 850 is annexed hereto as Exhibit "G". A copy of Quantum's wire transfers to Westwood and to Penn are annexed hereto as Exhibit "H".

12. In early January 2008, Quantum contacted defendant National's main office in Miamisburg, Ohio to confirm that pursuant to the assignment payment of the Invoice would be made by National directly to Quantum, as assignor, rather than to assignee Westwood.

13. Additionally, Quantum attempted to contact defendant Westwood to advise it that if defendant National paid the Invoice to it, instead of to Quantum, that the payment was required to be turned over to Quantum.

14. However, despite several attempts to reach Westwood by telephone, Quantum was unable to make contact with Westwood and this raised concerns.

**THE FRAUD AND PENN REFUSES TO RETURN THE PAYMENT OR SHIP
THE POLLYDORE RESIDENCE**

15. Quantum then contacted the Pollydore's and was advised by Mrs. Pollydore that not only had the residence not been set on the foundation, but that there was no foundation and that no materials had been delivered to the site.

16. After receiving this information, I contacted defendant Westwood's supplier, defendant Penn, to confirm that it had in fact shipped Mr. and Mrs. Pollydore's modular home for which Quantum had paid it.

17. Defendant Penn advised me on January 11, 2008 that: (a) it had never heard of Pollydore's; (b) had not shipped the Pollydore Residence, and; (c) that the \$112,168.28 Penn invoice No. 850 (Exhibit "G") which Quantum had paid was fictitious.

18. On January 15, 2008, by e-mail, I demanded that defendant Penn return to Quantum the \$112,168.28 which Quantum had wired in payment for the Pollydore

Residence. A copy of my January 15, 2008 e-mail to Penn's President, David Reed, demanding the immediate return of the \$112,168.28 is annexed hereto as Exhibit "I".

19. Notwithstanding my aforesaid demand and further conversations between defendant Penn and Quantum's attorney, Charles A. Shea, III, Esq., of Wetzel, Caverly, Shea, Phillips & Rodriguez, Penn refused to either return the \$112,168.28 to Quantum or to ship the Pollydore Residence.

20. As a result, Quantum amended its Complaint herein to add Penn as a defendant asserting against it claims for conversion and unjust enrichment. A copy of Quantum's Corrected Amended Complaint is annexed hereto as Exhibit "J".

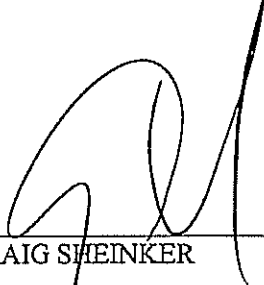
21. A copy of defendant Penn's Answer, wherein it admits in pertinent part that:

- (a) "Penn Lyon has never entered into any contracts or transactions with Westwood or Warfield for the production and manufacture of modular custom-built home units to be delivered to 6117 Elm Street, Lanham, Maryland on property owned by Mr. and Mrs. Eustace Pollydore (the "Pollydore Project")" (para. 39); and
- (b) On or about December 24, 2007, Penn Lyon received a wire transfer in the amount of \$112,168.12 (sic)..." (para. 41);

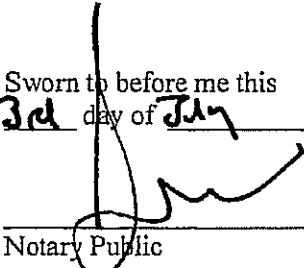
but denies that it either converted Quantum's \$112,168.28 transfer to it and/or was unjustly enriched by that transfer (paras. 16 and 18), is annexed hereto as Exhibit "K".

22. Notwithstanding defendant Penn's denials, the undisputed facts evidence that Quantum on December 21, 2007 wired \$112,168.28 from its account at Sterling National Bank to Penn Lyon's account at Omega Bank in payment for the "Pollydore Residence" and that at no time did Penn either credit that payment to the "Pollydore Project" (Exhibit "K" para. 39) or ship the Pollydore Residence or return Quantum's \$112,168.28, despite Quantum's demand for its return.

WHEREFORE, I respectfully request that the Court grant this motion, as well as such other and further relief as may be just and proper.


CRAIG SHEINKER

Sworn to before me this
3rd day of July, 2008


Notary Public

BERNARD ROSEN
NOTARY PUBLIC, State of New York
No. 4603478
Qualified in Westchester County
Commission Expires May 21, 2010

W:\bkobroff\Quantum\Westwood\Aff. in Sup. of Motion for Summary Judgment.doc

EXHIBIT D

Quantum Corporate Funding, Ltd.

1140 Avenue of the Americas, 16th Floor

New York, N.Y. 10036

Tel. 212 768-1200

800 352-2585

Fax 212 944-8216

12/18/07

Mr. Christopher Washburn
Branch Manager
National City Mortgage Company
7852 Walker Drive, Suite 400
Greebelt, MD 20770

Re: Our Transaction# 25914 Client: Westwood Design Build Incorporated
Our Debtor#: 32772. Our Client#: 5999

P.O.#/Contract#	Job# / Project#	Controller#	P.O.Date	Invoice#	Inv.Date	Terms	Invoice Amount
	Project: Pollydora Residence. Construction Draw, Pollydora module delivery-#0005351534.			10084	12/18/07	45	***\$347,000.00

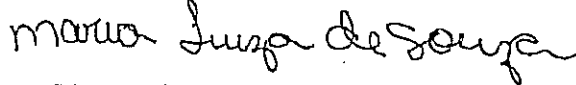
*****\$347,000.00

Dear Mr. Washburn:

We are the assignee of payment of the above captioned company. Attached is a letter from it authorizing all payments on the captioned invoices to be sent directly and solely to Quantum Corporate Funding, Ltd.

The undersigned Account Obligor acknowledges to Quantum Corporate Funding, Ltd. that the above invoice Amount(s) are correct and owing by us; that the work and or merchandise has been ordered from and completed by the captioned Client, and accepted by us; that there are not now, nor will there be, any claims, setoffs, or defenses beyond 20% of the Invoice Amount(s); Neither Quantum nor its agents made any representations except as herein set forth. This estoppel is not subject to modification. New York law, jurisdiction and venue shall apply hereto.

Very truly yours,



Shelley Simmonds
Senior Account Exec.

Agreed & Accepted

Authorized Signature

Account Obligor: National City Mortgage Company
Print Name:

Title



EXHIBIT E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
QUANTUM CORPORATE FUNDING, LTD

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID R. WARFIELD,
NATIONAL CITY MORTGAGE, INC. and PENN
LYON HOMES CORPORATION

Defendants.

Docket No. 08 CV 00539(LAK) (HP)

**DEFENDANT'S FIRST SET OF
INTERROGATORIES TO
PLAINTIFF QUANTUM
CORPORATE FUNDING, LTD.**

TO: Bernard Kobroff, Esq.
Goetz Fitzpatrick, LLP
One Penn Plaza, 44th Floor
New York, New York 10119
Attorney for Plaintiff
Quantum Corporate Funding, Ltd.

PLEASE TAKE NOTICE that defendant Penn Lyon Homes Corporation by and through its undersigned counsel, hereby requests that plaintiff Quantum Corporate Funding, Ltd. answer the following interrogatories under oath and in the manner and time prescribed by Rule 33 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court for the Southern District of New York.

PLEASE TAKE FURTHER NOTICE that these interrogatories are deemed to be continuing in nature so as to require supplemental answers within thirty days if the responding party becomes aware of new responsive information up to and including the time of trial of this action. These interrogatories are without prejudice to Penn Lyon Homes Corporation's right to serve supplemental interrogatories in accordance with Local Civil Rule 33.3.

9 With regarding to each person whom Quantum Corporate Funding expects to call as an expert witness at trial, please state the qualifications of the expert, the subject matter on which the expert is expected to testify, the substance of the facts and opinions on which the expert is expected to testify, and a summary of the grounds for each opinion.

10. Set forth in detail all specific facts, not legal conclusions, upon which Quantum Corporate Funding relies to prove its allegations contained in paragraph 48 of Quantum's Corrected Amended Complaint that On December 21, 2007, defendants Westwood and Warfield unlawfully took \$112,168.28 of plaintiff Quantum's money, converted it to their own use and transferred it to defendant Penn allegedly in payment for supplies and materials used in the construction of the Project."

11. Set forth in detail all specific facts, not legal conclusions, upon which Quantum Corporate Funding relies to prove its allegation in paragraph 50 of its Corrected Amended Complaint that "In January 2008, plaintiff Quantum demanded that defendant Penn return the \$112,168.12 to Quantum, but Penn has refused and still refuses to return the \$112,168.12 to Quantum."

12. Set forth in detail all specific facts, not legal conclusions, upon which Quantum Corporate Funding relies to prove its allegation in paragraph 52 of Quantum's Corrected Amended Complaint that "... Quantum has sustained damages in the amount of \$112,168.28.

13. Set forth in detail all specific facts, not legal conclusions, upon which Quantum Corporate Funding relies to prove its allegation in paragraph 54 of Quantum's Corrected Amended Complaint that "Defendant Penn has been unjustly enriched as a result of the \$112,168.28 of plaintiff's Quantum monies transferred to it."

14. Describe in detail all steps taken by Quantum Corporate Funding to investigate Westwood Design/Build Incorporated and the status of Westwood's work in connection with the Pollydore project at 6117 Elm Street in Lanham, Maryland, prior to forwarding payment to Penn Lyon in the amount if \$112,168.28.

15. Describe in detail all documents received by Quantum from Westwood, Mr. Conrad, Mr. Warfield or the Pollydore's referencing purported invoices from Penn Lyon regarding the Pollydore project.

16. As to each of these interrogatories, (a) state the names and titles, if any, of all individuals who participated or assisted in preparing or supplying any information given in answer to these interrogatories, or who prepared or supplied any answer, indicating the case of each such individual the specific interrogatory number for which he prepared or supplied any information or answer; and (b) unless described or identified elsewhere in the answers to these interrogatories, describe by means sufficient for identification, (i) all sources, documentary or human, consulted for purpose of preparing each answer; and (ii) all other sources of information, if any, used in preparing each such answer.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
QUANTUM CORPORATE FUNDING, LTD

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID R. WARFIELD,
NATIONAL CITY MORTGAGE, INC. and PENN
LYON HOMES CORPORATION

Defendants.

Docket No. 08 CV 00539(LAK) (HP)

**DEFENDANT'S FIRST SET OF
DOCUMENT REQUESTS TO
PLAINTIFF QUANTUM
CORPORATE FUNDING, LTD.**

TO: Bernard Kobroff, Esq.
Goetz Fitzpatrick, LLP
One Penn Plaza, 44th Floor
New York, New York 10119
Attorney for Plaintiff
Quantum Corporate Funding, Ltd.

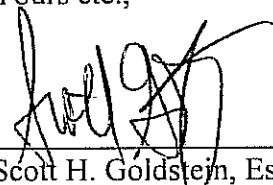
PLEASE TAKE NOTICE that defendant Penn Lyon Homes Corporation by and through its undersigned counsel, hereby requests that plaintiff Quantum Corporate Funding, Ltd. serve a written response to this First Set of Document Requests and produce the documents and items described below for discovery and inspection in the manner and time prescribed by Rule 34 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court for the Southern District of New York, at the offices of Bonner Kiernan Trebach & Crociata, LLP, Empire State Building, Suite 3304, New York, New York, 10018

PLEASE TAKE FURTHER NOTICE that these Document Requests are deemed to be continuing in nature so as to require supplemental responses up to and including the time of trial of this action.

Dated: New York, New York
July 16, 2008

Yours etc.,

By: _____


Scott H. Goldstein, Esq.
BONNER KIERNAN TREBACH
& CROCIATA, LLP
Attorneys for Defendant
Penn Lyon Homes Corporation
State Building, Suite 3304
New York, New York 10118
(212) 268-7535

DEFINITIONS AND INSTRUCTIONS

1. Please refer to Rule 26.3(c) and (d) of the Local Civil Rules of the United States District Court for the Southern District of New York for uniform definitions applicable to the requests below.
2. Please refer to Rule 26.2 of the Local Civil Rules of the United States District Court for the Southern District of New York for the information to be provided where a claim of privilege is asserted.
3. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, Quantum Corporate Funding, Ltd., has a continuing duty to furnish additional and supplemental documents and responses as and where such further documents and responses become known or available between the time of the initial response thereunder and the time of hearing or trial in this proceeding.
4. "Plaintiff" of "Quantum" refers to plaintiff Quantum Corporate Funding, Ltd., together with all predecessors, affiliates, subsidiaries, parents and related entities.
5. "Defendant" of "Penn Lyon" refers to defendant Penn Lyon Homes Corporation, together with all predecessors, affiliates, subsidiaries, parents and related entities
6. "NCM" refers to defendant National City Mortgage, together with all predecessors, affiliates, subsidiaries, parents and related entities.
7. "Westwood" refers to defendant Westwood Design/Build Incorporated together with all predecessors, affiliates, subsidiaries, parents and related entities
8. "Warfield" refers to defendant David R. Warfield, together with his agents, servants and any employees authorized to act on his behalf.

9. "Conrad" refers to third-party defendant Michael Conrad a/k/a Michael Conrad Brown, together with all agents, servants and any employees authorized to act on his behalf.

DOCUMENT REQUESTS

1. All documents reflecting or concerning communications (whether oral or written) between Quantum and Penn Lyon.
2. All documents reflecting or concerning communications (whether oral or written) between Quantum and Westwood.
3. All documents reflecting or concerning communications (whether oral or written) between Quantum and NCM.
4. All documents reflecting or concerning communications (whether oral or written) between Quantum and Conrad.
5. All documents reflecting or concerning communications (whether oral or written) between Quantum and Warfield.
6. All documents reflecting or concerning communications (whether oral or written) between Quantum and June Pollydore or Eustace Pollydore.
7. Any and all documents reflecting or concerning communications (whether oral or written) between Quantum and any non-party to this litigation.
8. Any and all notes, memoranda, e-mail or other writings that record, summarize or otherwise reflect oral or written communications among employees of Quantum relating in any way to the subject matter of this litigation.
9. All documents concerning any, prayer for relief or defense in this action or upon which Quantum may rely in support of its claims in this action.

10 Any and all documents that Quantum contends establishes liability, responsibility or fault on the part of Penn Lyon.

11. All documents concerning Quantum's claims for damages against Penn Lyon as well as all documents relating to the method of calculation of damages.

12. Any and all documents referred to in Quantum's Corrected Amended Complaint.

13. Any and all documents identified in Quantum's responses to Penn Lyon's interrogatories.

14. Any and all documents referred to by Quantum in preparing its Answers to Penn Lyon's interrogatories.

15. All documents Quantum intends to use as evidence or exhibits at the trial of this case.

16. All reports and documents prepared by each expert which Quantum intends to use at the trial of this case, together with a current resume or curriculum vitae for each such expert.

17. Any and all documents provided by Quantum or its counsel to any and all experts expected to testify at trial on Quantum's behalf.

18. All documents that memorialize, reflect, relate or refer to any admissions and/or declarations against interests made by any party or witness.

19. All written or recorded statements (or notes of oral statements) by any party or non-party which refer or relate to the subject matter of this litigation.

20. All photographs, motion pictures, or video tapes which depict any object, site or thing relevant to this litigation.

21. All sound recordings that record any conversation or voice of any party to this litigation (or the representative of such party) or any conversation involving any non-party which is relevant in any way to this litigation.

22. All documents that Quantum has received or will receive pursuant to any subpoena or authorizations in connection with this litigation.

23. All documents that relate or refer to the allegation in paragraph 48 of Quantum's Corrected Amended Complaint that On December 21, 2007, defendants Westwood and Warfield unlawfully took \$112,168.28 of plaintiff Quantum's money, converted it to their own use and transferred it to defendant Penn allegedly in payment for supplies and materials used in the construction of the Project."

24. All documents that relate or refer to the allegation in paragraph 50 of Quantum's Corrected Amended Complaint that "In January 2008, plaintiff Quantum demand that defendant Penn return the \$112,168.12 to Quantum, but Penn has refused and still refuses to return the \$112,168.12 to Quantum."

25. All documents that relate or refer to any work and materials that Quantum contends to have been furnished by Westwood to the Pollydores.

26. All documents that relate or refer to the allegation in paragraph 52 of Quantum's Corrected Amended Complaint that "... Quantum has sustained damages in the amount of \$112,168.28.

27. All documents that relate or refer to the allegation in paragraph 54 of Quantum's Corrected Amended Complaint that "Defendant Penn has been unjustly enriched as a result of the \$112,168.28 of plaintiff's Quantum monies transferred to it."

28. Any and all documents that relates or refers to any steps taken by Quantum to investigate Westwood and that status of Westwood's work in connection with the Pollydore project at 6117 Elm Street in Lanham, Maryland prior to forwarding payment to Penn Lyon in the amount of \$112,168.28.

29. All documents provided to Quantum from Westwood referencing invoices from Penn Lyon with respect to the Pollydore project.

30. Any and all documents that relates or refers to any steps taken by Quantum to investigate the materials that Westwood was using in connection with the Pollydore project at 6117 Elm Street in Lanham, Maryland prior to forwarding payment to Penn Lyon in the amount of \$112,168.28.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
QUANTUM CORPORATE FUNDING, LTD

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID R. WARFIELD,
NATIONAL CITY MORTGAGE, INC. and PENN
LYON HOMES CORPORATION

Defendants.

Docket No. 08 CV 00539(LAK) (HP)

**NOTICE OF DEPOSITION OF
WILMER RUSSELL**

NATIONAL CITY MORTGAGE,

Third Party Plaintiff,

-against-

MICHAEL CONRAD, a/k/a MICHAEL CONRAD
BROWN,

Third Party Defendant.

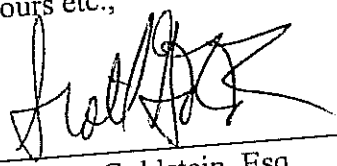
TO: Bernard Kobroff, Esq.
Goetz Fitzpatrick, LLP
Attorneys for Plaintiff
One Penn Plaza
Suite 4401
New York, New York 10119

PLEASE TAKE NOTICE that pursuant to Rule 30 of the Federal Rules of Civil Procedure, attorneys for defendant Penn Lyon Homes Corporation shall take the deposition upon oral examination of **Wilmer Russell of Quantum Corporate Funding**, before a person authorized to administer oaths, at Veritext, LLC, 1350 Broadway, Suite 1407, New York, New York 10018 on July 18, 2008 commencing at 10:00 a.m. The deposition will be recorded by stenographic means.

Dated: New York, New York
July 3, 2008

Yours etc.,

By: _____


Scott H. Goldstein, Esq.
BONNER KIERNAN TREBACH
& CROCIATA, LLP
Attorneys for Defendant
Penn Lyon Homes Corporation
State Building, Suite 3304
New York, New York 10118
(212) 268-7535

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
QUANTUM CORPORATE FUNDING, LTD

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID R. WARFIELD,
NATIONAL CITY MORTGAGE, INC. and PENN
LYON HOMES CORPORATION

Defendants.

Docket No. 08 CV 00539(LAK) (HP)

**NOTICE OF DEPOSITION OF
CRAIG SHEINKER**

NATIONAL CITY MORTGAGE,

Third Party Plaintiff,

-against-

MICHAEL CONRAD, a/k/a MICHAEL CONRAD
BROWN,

Third Party Defendant.

TO: Bernard Kobroff, Esq.
Goetz Fitzpatrick, LLP
Attorneys for Plaintiff
One Penn Plaza
Suite 4401
New York, New York 10119

PLEASE TAKE NOTICE that pursuant to Rule 30 of the Federal Rules of Civil Procedure, attorneys for defendant Penn Lyon Homes Corporatoin shall take the deposition upon oral examination of **Craig Sheinker, President of plaintiff Quantum Corporate Funding**, before a person authorized to administer oaths, at the Veritext, LLC, 1350 Broadway New York, New York 10018 on July 30, 2008 commencing at 10:00 a.m. The deposition will be recorded by stenographic means.

Dated: New York, New York
July 7, 2008

Yours etc.,

By: _____



Scott H. Goldstein, Esq.
BONNER KIERNAN TREBACH
& CROCIATA, LLP
Attorneys for Defendant
Penn Lyon Homes Corporation
State Building, Suite 3304
New York, New York 10118
(212) 268-7535

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
QUANTUM CORPORATE FUNDING, LTD

Plaintiff,

-against-

WESTWOOD DESIGN/BUILD
INCORPORATED, DAVID R. WARFIELD,
NATIONAL CITY MORTGAGE, INC. and PENN
LYON HOMES CORPORATION

Defendants.

Docket No. 08 CV 00539(LAK) (HP)

**NOTICE OF DEPOSITION OF
MARIA DESOUZA**

NATIONAL CITY MORTGAGE,

Third Party Plaintiff,

-against-

MICHAEL CONRAD, a/k/a MICHAEL CONRAD
BROWN,

Defendants

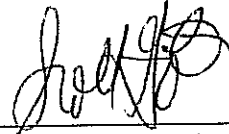
TO: Bernard Kobroff, Esq.
Goetz Fitzpatrick, LLP
Attorneys for Plaintiff
One Penn Plaza
Suite 4401
New York, New York 10119

PLEASE TAKE NOTICE that pursuant to Rule 30 of the Federal Rules of Civil Procedure, attorneys for defendant Penn Lyon Homes Corporation shall take the deposition upon oral examination of **Maria DeSouza, Account Executive of Quantum Corporate Funding**, before a person authorized to administer oaths, at Veritext, LLC, 1350 Broadway, Suite 1407, New York, New York 10018 on July 18, 2008 commencing at 10:00 a.m. The deposition will be recorded by stenographic means.

Dated: New York, New York
July 3, 2008

Yours etc.,

By: _____



Scott H. Goldstein, Esq.
BONNER KIERNAN TREBACH
& CROCIATA, LLP
Attorneys for Defendant
Penn Lyon Homes Corporation
State Building, Suite 3304
New York, New York 10118
(212) 268-7535

EXHIBIT F



"Bernard Kobroff"
<bkobroff@GoetzFitz.com>
07/11/2008 11:29 AM

To <TDoherty@McCarter.com>, <sgoldstein@bktc.net>
cc
bcc
Subject Quantum v NCM, Penn Lyon

History: This message has been replied to.



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

I am in receipt of you respective deposition notices for Ms. DeSouza and Rudolph and Mr. Sheinker as well as NCM's interrogatories and document demands. The dates you have selected for the depositions do not work for either myself or for the Quantum people. Instead I propose that the depositions be conducted during the first week in August. In this context, given the Scheduling Order's 8/9/08 discovery cut-off date, I propose that we stipulate to extend that and all succeeding dates by 30 days.

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EXHIBIT G

Scott Goldstein/BKTC
07/14/2008 08:05 PM

To "Bernard Kobroff" <bkobroff@GoetzFitz.com>
cc TDoherty@McCarter.com
bcc Melissa Thompson/BKTC@BKTC
Subject Re: Quantum v NCM, Penn Lyon

I have no objection to adjourning the depositions and I am available the first week in August. However, we need to work out a schedule for us to oppose your summary judgment motion a sufficient time after we have completed the depositions and/or paper discovery which I will be serving tomorrow. Let me know how you want to proceed.

Very truly yours,

Scott H. Goldstein, Esq.
Bonner Kiernan Trebach & Crociata, LLP
Empire State Building, Suite 3304
New York, NY 10118
Phone: (212) 268-7535
Fax: (212) 268-4965
E-mail: sgoldstein@bktc.net

"Bernard Kobroff" <bkobroff@GoetzFitz.com>



"Bernard Kobroff"
<bkobroff@GoetzFitz.com>
07/11/2008 11:29 AM

To <TDoherty@McCarter.com>, <sgoldstein@bktc.net>
cc
Subject Quantum v NCM, Penn Lyon



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com


I am in receipt of you respective deposition notices for Ms. DeSouza and Rudolph and Mr. Sheinker as well as NCM's interrogatories and document demands. The dates you have selected for the depositions do not work for either myself or for the Quantum people. Instead I propose that the depositions be conducted during the first week in August. In this context, given the Scheduling Order's 8/9/08 discovery cut-off date, I propose that we stipulate to extend that and

all succeeding dates by 30 days.

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EXHIBIT H

Scott Goldstein/BKTC
07/21/2008 05:37 PM

To "Bernard Kobroff" <bkobroff@GoetzFitz.com>
cc
bcc
Subject Re: Quantum v NCM, Penn Lyon 

Dear Bernard:

Just by way of follow up, we need an extension of time to file opposition to the motion for summary judgment. I again respectfully request that it be adjourned until after the depositions take place so that we have the benefit of having conducted some discovery to oppose the motion. Please let me know at your earliest convenience. Thanks!!

Very truly yours,

Scott H. Goldstein, Esq.
Bonner Kieman Trebach & Crociata, LLP
Empire State Building, Suite 3304
New York, NY 10118
Phone: (212) 268-7535
Fax: (212)268-4965
E-mail: sgoldstein@bktc.net

EXHIBIT I



"Bernard Kobroff"
<bkobroff@GoetzFitz.com>
07/22/2008 03:12 PM

To "Doherty, Thomas F." <TDoherty@McCarter.com>,
<sgoldstein@bktc.net>
cc
bcc

Subject RE: Quantum v NCM, Penn Lyon

History: This message has been replied to.



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

I am amenable to your requests. However, Quantum recently moved and the documents regarding this action have been packed and now must be unpacked and this will probably not be done until next week, at which time it will respond to your respective demands and interrogatories.

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From: Doherty, Thomas F. [<mailto:TDoherty@McCarter.com>]

Sent: Friday, July 18, 2008 10:08 AM

To: Bernard Kobroff

Cc: SGoldstein@bktc.net

Subject: RE: Quantum v NCM, Penn Lyon

Bernard,

I tried reaching you by phone the other day, but I understand from your message on Wednesday afternoon that you would be out of the office yesterday and today. I have no objection to adjourning the scheduled depositions of the Quantum witnesses until the first week of August, although I am still expecting plaintiff's responses to the written discovery demands in a timely fashion next week. I also have no objection to a joint request to the Court for an Amended Scheduling Order granting a 30-day extension of the August 9th discovery end date and a corresponding extension of the September 9th due date for s.j. motions, the pretrial order, jury instructions and requested voir dire questions.

Regarding your deposition notice for Christopher Washburn, I have a scheduling conflict on July 29th. Since the Quantum witness depositions were noticed first and would have been conducted today and Monday, I propose that Mr. Washburn's deposition be rescheduled for late in the first week of August, after the Quantum witness depositions are completed.

Perhaps we all should have a brief conference call on Monday to discuss these scheduling issues and approaching the Court for an extension.

--Tom Doherty

-----Original Message-----

From: SGoldstein@bktc.net [mailto:SGoldstein@bktc.net]

Sent: Monday, July 14, 2008 8:06 PM

To: Bernard Kobroff

Cc: Doherty, Thomas F.

Subject: Re: Quantum v NCM, Penn Lyon

I have no objection to adjourning the depositions and I am available the first week in August. However, we need to work out a schedule for us to oppose your summary judgment motion a sufficient time after we have completed the depositions and/or paper discovery which I will be serving tomorrow. Let me know how you want to proceed.

Very truly yours,

Scott H. Goldstein, Esq.
Bonner Kiernan Trebach & Crociata, LLP
Empire State Building, Suite 3304
New York, NY 10118
Phone: (212) 268-7535
Fax: (212) 268-4965
E-mail: sgoldstein@bktc.net

"Bernard Kobroff" <bkobroff@GoetzFitz.com>

07/11/2008 11:29 AM

To: <TDoherty@McCarter.com>, <sgoldstein@bktc.net>

cc

Subject: Quantum v NCM, Penn Lyon



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

I am in receipt of your respective deposition notices for Ms. DeSouza and Rudolph and Mr. Sheinker as well as NCM's interrogatories and document demands. The dates you have selected for the depositions do not work for either myself or for the Quantum people. Instead I propose that the depositions be conducted during the first week in August. In this context, given the Scheduling Order's 8/9/08 discovery cut-off date, I propose that we stipulate to extend that and all succeeding dates by 30 days.

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EXHIBIT J



"Doherty, Thomas F."
<TDoherty@McCarter.com>
07/24/2008 04:27 PM

To "Bernard Kobroff" <bkobroff@GoetzFitz.com>, sgoldstein@bktc.net
cc
bcc

Subject RE: Quantum v NCM, Penn Lyon

History: This message has been replied to.

Pursuant to my separate discussions with Bernard and Scott, I am attaching a proposed form of Amended Scheduling Order to which the parties would be stipulating. Please let me know if this form is acceptable or if you have any changes. If the form is acceptable to everyone, Scott and I should sign and forward it to Bernard so that he may sign and submit the proposed Order to Judge Kaplan for the Court's consideration.

-----Original Message-----

From: Bernard Kobroff [mailto:bkobroff@GoetzFitz.com]
Sent: Tuesday, July 22, 2008 3:12 PM
To: Doherty, Thomas F.; sgoldstein@bktc.net
Subject: RE: Quantum v NCM, Penn Lyon



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

I am amenable to your requests. However, Quantum recently moved and the documents regarding this action have been packed and now must be unpacked and this will probably not be done until next week, at which time it will respond to your respective demands and interrogatories.

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From: Doherty, Thomas F. [mailto:TDoherty@McCarter.com]
Sent: Friday, July 18, 2008 10:08 AM

To: Bernard Kobroff
Cc: SGoldstein@bktc.net
Subject: RE: Quantum v NCM, Penn Lyon

Bernard,

I tried reaching you by phone the other day, but I understand from your message on Wednesday afternoon that you would be out of the office yesterday and today. I have no objection to adjourning the scheduled depositions of the Quantum witnesses until the first week of August, although I am still expecting plaintiff's responses to the written discovery demands in a timely fashion next week. I also have no objection to a joint request to the Court for an Amended Scheduling Order granting a 30-day extension of the August 9th discovery end date and a corresponding extension of the September 9th due date for s.j. motions, the pretrial order, jury instructions and requested voir dire questions.

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Perhaps we all should have a brief conference call on Monday to discuss these scheduling issues and approaching the Court for an extension.

—Tom Doherty

-----Original Message-----

From: SGoldstein@bktc.net [mailto:SGoldstein@bktc.net]
Sent: Monday, July 14, 2008 8:06 PM
To: Bernard Kobroff
Cc: Doherty, Thomas F.
Subject: Re: Quantum v NCM, Penn Lyon

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Very truly yours,

Scott H. Goldstein, Esq.
Bonner Kiernan Trebach & Crociata, LLP
Empire State Building, Suite 3304
New York, NY 10118
Phone: (212) 268-7535
Fax: (212) 268-4965
E-mail: sgoldstein@bktc.net

"Bernard Kobroff" <bkobroff@GoetzFitz.com>

07/11/2008 11:29 AM

To <TDoherty@McCarter.com>, <sgoldstein@bktc.net>

cc

Subject Quantum v NCM, Penn Lyon



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

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message. Quantum-Nat City - Amended Scheduling Order.DOC

EXHIBIT K

Scott Goldstein/BKTC
07/24/2008 06:21 PM

To "Doherty, Thomas F." <TDoherty@McCarter.com>
cc "Bernard Kobroff" <bkobroff@GoetzFitz.com>
bcc
Subject RE: Quantum v NCM, Penn Lyon 

Shouldn't we have something in there specifically addressing the currently pending SJ motion or does the paragraph dealing with SJ motions pertain to it?

Very truly yours,

Scott H. Goldstein, Esq.
Bonner Kiernan Trebach & Crociata, LLP
Empire State Building, Suite 3304
New York, NY 10118
Phone: (212) 268-7535
Fax: (212) 268-4965
E-mail: sgoldstein@bktc.net

"Doherty, Thomas F." <TDoherty@McCarter.com>



"Doherty, Thomas F."
<TDoherty@McCarter.com>
07/24/2008 04:27 PM

To "Bernard Kobroff" <bkobroff@GoetzFitz.com>, sgoldstein@bktc.net
cc
Subject RE: Quantum v NCM, Penn Lyon

Pursuant to my separate discussions with Bernard and Scott, I am attaching a proposed form of Amended Scheduling Order to which the parties would be stipulating. Please let me know if this form is acceptable or if you have any changes. If the form is acceptable to everyone, Scott and I should sign and forward it to Bernard so that he may sign and submit the proposed Order to Judge Kaplan for the Court's consideration.

-----Original Message-----

From: Bernard Kobroff [mailto:bkobroff@GoetzFitz.com]
Sent: Tuesday, July 22, 2008 3:12 PM
To: Doherty, Thomas F.; sgoldstein@bktc.net
Subject: RE: Quantum v NCM, Penn Lyon



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

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From: Doherty, Thomas F. [<mailto:TDoherty@McCarter.com>]
Sent: Friday, July 18, 2008 10:08 AM
To: Bernard Kobroff
Cc: SGoldstein@bktc.net
Subject: RE: Quantum v NCM, Penn Lyon

Bernard,

I tried reaching you by phone the other day, but I understand from your message on Wednesday afternoon that you would be out of the office yesterday and today. I have no objection to adjourning the scheduled depositions of the Quantum witnesses until the first week of August, although I am still expecting plaintiff's responses to the written discovery demands in a timely fashion next week. I also have no objection to a joint request to the Court for an Amended Scheduling Order granting a 30-day extension of the August 9th discovery end date and a corresponding extension of the September 9th due date for s.j. motions, the pretrial order, jury instructions and requested voir dire questions.

Regarding your deposition notice for Christopher Washburn, I have a scheduling conflict on July 29th. Since the Quantum witness depositions were noticed first and would have been conducted today and Monday, I propose that Mr. Washburn's deposition be rescheduled for late in the first week of August, after the Quantum witness depositions are completed.

Perhaps we all should have a brief conference call on Monday to discuss these scheduling issues and approaching the Court for an extension.

—Tom Doherty

-----Original Message-----

From: SGoldstein@bktc.net [mailto:SGoldstein@bktc.net]

Sent: Monday, July 14, 2008 8:06 PM

To: Bernard Kobroff

Cc: Doherty, Thomas F.

Subject: Re: Quantum v NCM, Penn Lyon

I have no objection to adjourning the depositions and I am available the first week in August. However, we need to work out a schedule for us to oppose your summary judgment motion a sufficient time after we have completed the depositions and/or paper discovery which I will be serving tomorrow. Let me know how you want to proceed.

Very truly yours,

Scott H. Goldstein, Esq.
Bonner Kiernan Trebach & Crociata, LLP
Empire State Building, Suite 3304
New York, NY 10118
Phone: (212) 268-7535
Fax: (212) 268-4965
E-mail: sgoldstein@bktc.net

"Bernard Kobroff" <bkobroff@GoetzFitz.com>

07/11/2008 11:29 AM

To:<TDoherty@McCarter.com>, <sgoldstein@bktc.net>
cc
SubjectQuantum v NCM, Penn Lyon



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401

New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

I am in receipt of you respective deposition notices for Ms. DeSouza and Rudolph and Mr. Sheinker as well as NCM's interrogatories and document demands. The dates you have selected for the depositions do not work for either myself or for the Quantum people. Instead I propose that the depositions be conducted during the first week in August. In this context, given the Scheduling Order's 8/9/08 discovery cut-off date, I propose that we stipulate to extend that and all succeeding dates by 30 days.

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message. Quantum-Nat City - Amended Scheduling Order.DOC

EXHIBIT L

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Suite 3304
New York, NY 10118
Telephone: (212) 268-7535
Facsimile: (212) 268-4965
bktc@bkrc.net
www.bkrc.net

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T R E B A C H &
C R O C I A T A , L L P

Connecticut
Maryland
Massachusetts
New Jersey
New York
Pennsylvania
Rhode Island
Virginia
Washington, DC

July 29, 2008

By Facsimile (212) 629-4013 and Regular Mail

Bernard Kobroff, Esq.
Goetz Fitzpatrick, LLP
One Penn Plaza, Suite 4401
New York, New York 10119

Re: Quantum v. Penn Lyon Homes Corporation, et al
Docket No.: 08 CV 00539 (LAK) (HP)
BKT&C No.: 0899.0006

Dear Mr. Kobroff:

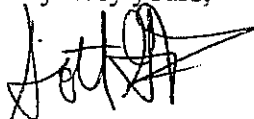
We represent defendant Penn Lyon Homes Corporation ("Penn Lyon") in the above matter.

On July 21, 2008, we sent you an e-mail correspondence requesting that we first conduct discovery (respond to document demands and conduct depositions) before we responded to your motion for summary judgment. We received an e-mail response from you vaguely stating that you were amenable to our request to conduct discovery prior to filing our response to your motion for summary judgment.

In that regard, we should include something in the Amended Scheduling Order addressing the pending summary judgment motion. Please contact me at your earliest convenience to discuss.

Should you have any questions, please do not hesitate to contact me.


Very truly yours,



Scott H. Goldstein
SHG/mt

cc: Thomas F. Doherty, Esq. *via facsimile (973) 297-6612 and regular mail*

Scott Goldstein/BKTC
07/29/2008 04:51 PM

To "Bernard Kobroff" <bkobroff@GoetzFitz.com>
cc "Doherty, Thomas F." <TDoherty@McCarter.com>
bcc Melissa Thompkins/BKTC@BKTC
Subject RE: Quantum v NCM, Penn Lyon - status of Amended
Scheduling Order 

Dear Bernard:

In furtherance of Tom's request to address the Amended Scheduling Order, I just faxed a letter to you to see if we can discuss putting anything in the Scheduling Order regarding a briefing schedule for your pending SJ motion or however you want to deal with it vis a vis the upcoming depositions and discovery responses.

I'll be available all morning tomorrow to discuss.

Very truly yours,

Scott H. Goldstein, Esq.
Bonner Kiernan Trebach & Crociata, LLP
Empire State Building, Suite 3304
New York, NY 10118
Phone: (212) 268-7535
Fax: (212) 268-4965
E-mail: sgoldstein@bktc.net

EXHIBIT M



"Bernard Kobroff"
<bkobroff@GoetzFitz.com>
07/30/2008 04:43 PM

To <SGoldstein@bktc.net>
cc "Doherty, Thomas F." <TDoherty@McCarter.com>
bcc
Subject FW: Scanned document from Administrator/ PLH

History: This message has been replied to.



Bernard Kobroff
Goetz Fitzpatrick
One Penn Plaza, Suite 4401
New York, NY 10119
Phone: 212.695.8100
Fax: 212.629.4013
www.goetzfitz.com

Herewith is the Stipulation

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. To reply to our email administrator directly, please send an email to Jon Kowalski (jkowalski@goetzfitz.com).

From: Administrator
Sent: Wednesday, July 30, 2008 4:41 PM
To: Bernard Kobroff
Subject: Scanned document from Administrator



STIPULATION.pdf

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
QUANTUM CORPORATE FUNDING, LTD.,

Plaintiff,

Civil Action No. 08-cv-0539
(LAK) (HBP)

vs.

WESTWOOD DESIGN/BUILD INCORPORATED,
DAVID R. WARFIELD, NATIONAL CITY
MORTGAGE INC., and PENN LYON HOMES
CORPORATION,

**STIPULATION EXTENDING
TIME TO OPPOSE MOTION
FOR SUMMARY JUDGMENT**

Defendants.

NATIONAL CITY MORTGAGE,

Third-Party Plaintiff,

vs.

MICHAEL CONRAD, a/k/a MICHAEL CONRAD
BROWN,

Third-Party Defendant.

-----X

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys
for the Plaintiff Quantum Corporate Funding, Ltd and Defendant Penn Lyon Homes Corporation
("PLH"), that the time within which the said Defendant PLH may file opposition to plaintiff's
summary judgment is extended until September 5, 2008 to allow for sufficient discovery to be
completed.

Dated: New York, New York
July 30, 2008

SO STIPULATED & AGREED:

GOETZ FITZPATRICK, LLP

By: 

Bernard Kobroff, Esq.
Attorneys for Plaintiff

McCARTER & ENGLISH, LLP

By: 

Thomas F. Doherty, Esq.
Attorney for Defendant/
Third-Party Plaintiff
National City Mortgage

BONNER KIERNAN TREBACH
& CROCIATA LLP

By: 

Scott H. Goldstein, Esq.
Attorney for Defendant
Penn Lyon Homes Corp.

EXHIBIT N

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
QUANTUM CORPORATE FUNDING, LTD.,

Plaintiff,

-against-

08 Civ. 0539 (LAK)

WESTWOOD DESIGN/BUILD, INC., et ano,

Defendants.
----- x

ORDER

LEWIS A. KAPLAN, *District Judge*.

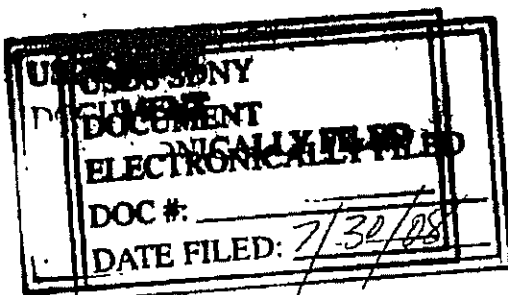
Plaintiff moves for summary judgment awarding it the sum of \$112,168.28 together with interest thereon from January 25, 2008 as against defendant Penn Lyon Homes Corporation ("Penn"). Penn has not responded to the motion although the time within which to do so has expired.


In these circumstances, the well supported averments of plaintiff's Rule 56.1 Statement are deemed admitted. S.D.N.Y. Civ. R. 56.1(c). It therefore is plain that there is no disputed issue as to any material fact and that plaintiff is entitled to judgment as a matter of law. Accordingly, plaintiff's motion [DI 37] is granted in all respects.

As this resolves all of plaintiff's claims against Penn and any delay in the finality and enforceability of its judgment against Penn would work an undue hardship, the Court hereby determines that there is no just reason for delay and directs the Clerk to enter final judgment in favor of plaintiff and against Penn in accordance with this order.

SO ORDERED.

Dated: July 30, 2008





Lewis A. Kaplan
United States District Judge

EXHIBIT O

Empire State Building
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bktc@bktc.net
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C R O C I A T A , L L P

Connecticut
Maryland
Massachusetts
New Jersey
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Pennsylvania
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Virginia
Washington, DC

Via hand delivery

July 31, 2008

Hon. Lewis A. Kaplan, USDJ
Daniel P. Moynihan U.S. Courthouse, Rm. 1310
500 Pearl Street
New York, New York 10007-1312

Re: Quantum v. Penn Lyon Homes Corporation, et al
Docket No.: 08 CV 00539 (LAK) (HP)

Dear Judge Kaplan:

We represent Penn Lyon Homes Corporation in the above matter.

We recently filed a fully executed Stipulation dated July 30, 2008 extending Penn Lyon's time to file opposition to plaintiff Quantum Corporate Funding, Ltd's summary judgment motion until September 5, 2008, so that the parties could complete some needed discovery. However, before we had an opportunity to file the Stipulation with the Court, we received notification that plaintiff's motion was granted on default. We respectfully request that the Court So Order the submitted Stipulation and that the Court's order be vacated on the grounds that the parties had already agreed to an extension of time for Penn Lyon to file opposition to the motion and that there was excusable neglect for the slight delay in filing the Stipulation for the reasons set forth below. In the alternative, we respectfully request that the Court schedule a conference to address the issues raised below in this letter.

As this Court is aware, on July 8, 2008, Quantum filed a summary judgment motion against Penn Lyon in this action. Indeed, the motion was filed prior to any discovery taking place. Within a day or two of receiving the motion, we contacted plaintiff's counsel by telephone and requested an adjournment of the motion to complete some needed discovery before we were required to file our opposition. Plaintiff's counsel advised that he needed to consult with his client before granting our request.

On July 3, 2008, we served plaintiff with Notices for the Depositions of Wilmer Russell, Maria DeSouza and Craig Sheinker of Quantum for dates in July, 2008. Then, on July 16, 2008, we served plaintiff with Penn Lyon's first set of interrogatory demands and First Set of Document Requests.

Upon receipt of our deposition notices and co-defendant National's deposition notices, on July 11, 2008, plaintiff advised us, by e-mail, that his clients would not be able to attend depositions on the noticed dates and requested that the depositions be rescheduled. Plaintiff also requested that the Amended Scheduling Order be extended by 30 days.

Having not heard back from plaintiff about our request for an extension of time, on July 14, 2008, we responded to plaintiff's July 11, 2008 e-mail by sending counsel an e-mail correspondence agreeing to adjourn the deposition and requesting that we enter into a briefing schedule to adjourn the pending motion to allow Penn Lyon sufficient time to complete the outstanding discovery before filing its opposition. Apparently, soon after we sent our e-mail, plaintiff's counsel was out of the office until July 21, 2008 and did not respond to our request for a briefing schedule/adjournment during that entire week.

Realizing that our time to get a Stipulation into the court was running short, on July 21, 2008, we followed up with plaintiff's counsel's office by e-mail requesting a response to our adjournment request. Finally, on July 22, 2008, via e-mail correspondence, plaintiff agreed to extend Penn Lyon's time to answer the motion and allow discovery to go forward. However, in this e-mail, plaintiff's counsel was still unable to provide us with dates when Quantum's witnesses could be produced for deposition. Therefore, at that time, it was impossible for us to choose an appropriate deadline for the filing of defendants' opposition papers, because we did not yet know how much time would be needed to allow sufficient time to us to obtain and examine the deposition transcripts prior to filing our opposition to the motion.

On July 24, 2008, co-defendant National circulated a proposed Amended Scheduling Order via e-mail which sought to extend all existing dates in the initial scheduling order by one month. In response to National's e-mail, we sent e-mail correspondence to plaintiff's counsel and National's counsel reiterating the need for a briefing schedule for the pending summary judgment motion and suggesting that it be included in the Amended Scheduling Order.

Plaintiff again did not respond to our e-mail about our request for a briefing schedule, so, as a last ditch effort, on July 29, 2008, we sent a letter to plaintiff's counsel via facsimile and a separate message via e-mail again requesting that we agree on a briefing schedule for the motion and to include said schedule in the Amended Scheduling Order. On July 30, 2008, in the late afternoon, plaintiff's counsel finally responded to us, agreed to the terms of the recently filed stipulation extending plaintiff's time to file opposition to plaintiff's summary judgment motion in order to conduct discovery until September 5, 2008 and executed the Stipulation.

At approximately 5:00 P.M. plaintiff sent us the executed stipulation via e-mail. However, before we could e-file the Stipulation, the Court notified us via e-filing notification that plaintiff's summary judgment motion had been granted on default. Now that the motion was granted on default, we contacted plaintiff and requested that he enter

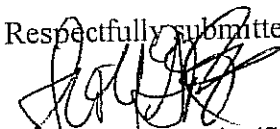
into a Stipulation vacating the default judgment. However, in one day, plaintiff's position has changed and counsel has refused to consent to vacatur of the Order.

Critically, the parties, most notably Penn Lyon, had been actively working on a briefing schedule and an adjournment of the motion for several weeks and plaintiff actually executed a Stipulation extending Penn Lyon's time to respond to the motion. Penn Lyon did not ignore the pending summary judgment motion at any time and took numerous steps to finalize a briefing schedule for the motion.

On these bases, we respectfully request, in the interests of justice and fairness that the Court so Order the agreed upon Stipulation extending Penn Lyon's time to file opposition to plaintiff's motion for summary judgment and vacate the currently entered Order granting plaintiff's motion for summary judgment on default without the necessity of a motion. In the alternative, we request that the Court schedule a conference to address the issues raised in this letter. Indeed, as previously discussed, it is undisputed that plaintiff agreed to adjourn the motion to allow us to conduct discovery, the only issue pertains to the slight delay in filing the Stipulation because plaintiff did not respond to our numerous requests for a briefing schedule to include in the Stipulation. We could not finalize a briefing schedule until depositions were scheduled and the depositions were not scheduled until late yesterday.

Notwithstanding this letter we will be also be filing a formal motion seeking reconsideration of the Order pursuant to Rule 59(e) and and/or vacatur of the default pursuant to Rule 55(c) and Rule 60(b) 1-6 under separate cover.

Respectfully submitted,



Scott H. Goldstein (SG 8333)

Enclosure

cc: Thomas F. Doherty, Esq.
Bernard Kobroff, Esq.